

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 06-21-04.

The IRO reviewed neuromuscular evaluation, muscle testing, therapeutic exercises, massage, therapeutic process-group, unlisted therapeutic process rendered from 11-11-03 through 12-30-03 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 08-04-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

CPT code 99080-73 dates of service 10-07-03 and 12-31-03 denied with denial code "E" (entitlement). A benefit contested case hearing held on 01-26-04 established entitlement. Per Rule 129.5 reimbursement is recommended in the amount of \$30.00 (\$15.00 X 2).

CPT code 99212 on date of service 11-10-03 and 99212-25 on dates of service 11-24-03, 11-26-03, 12-19-03, 12-22-03 and 12-23-03 (6 DOS) denied with denial code "E" (entitlement). A benefit contested case hearing held on 01-26-04 established entitlement. Reimbursement per the Medical Fee Guideline effective 08-01-03 is recommended in the amount of \$251.46 (\$33.53 X 125% = \$41.91 X 6 DOS).

CPT code 99213 date of service 11-11-03 and 12-31-03 denied with denial code "E" (entitlement). A benefit contested case hearing held on 01-26-04 established entitlement. Reimbursement per the Medical Fee Guideline effective 08-01-03 is recommended in the amount of \$117.98. (MAR is \$47.20 X 125% = \$59.00 X 2 = \$118.00). However, the requestor billed \$58.99 for each date of service.

CPT code 99070 dates of service 11-21-03 and 12-19-03 denied with denial code "E" (entitlement). A benefit contested case hearing held on 01-26-04 established entitlement. Reimbursement per the Medical Fee Guideline effective 08-01-03 is recommended in the amount of \$33.00 (\$25.00 and \$8.00).

CPT code 98943 dates of service 11-26-03, 12-05-03, 12-19-03, 12-22-03, 12-23-03, 12-24-03, 12-29-03 and 12-30-03 (8 DOS) denied with denial code "E" (entitlement). A benefit contested case hearing held on 01-26-04 established entitlement. Reimbursement per the Medical Fee Guideline effective 08-01-03 is recommended in the amount of \$223.76 (\$27.97 X 8 DOS).

CPT code 97750 date of service 12-01-03 (6 units) and 97750-MT (2 units) date of service 12-31-03 denied with denial code "E" (entitlement). A benefit contested case hearing held on 01-26-04 established

entitlement. Reimbursement per the Medical Fee Guideline effective 08-01-03 is recommended in the amount of \$267.28 (\$26.73 X 125%= \$33.41 X 8 units).

This Findings and Decision is hereby issued this 20th day of December 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

### **ORDER**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 10-07-03 through 12-31-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 20<sup>th</sup> day of December 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/dlh

### **NOTICE OF INDEPENDENT REVIEW DECISION**

**Date:** September 2, 2004

**RE:**

**MDR Tracking #:** M5-04-3842-01

**IRO Certificate #:** 5242

\_\_\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

**Submitted by Requester:**

- \_\_\_\_\_ summary of Providers' Position dated 8/13/03
- Texas Workers' Compensation Commission Hearing
- Patient Office Visit Reports dates 10/7/03-12/31/03
- \_\_\_\_\_ prescription for electrodes and Biofreeze
- Therapeutic Procedures Chart dates 11/12/03-12-30-03
- Muscle Strength Testing Report,
- Critical Job Demand Report
- Treatment Plan dated 11/12/03
- Exercise Grid 11/12/03-12/30/03
- \_\_\_\_\_ Initial Medical Narrative Report dated 10/7/03 from \_\_\_\_\_.
- TWCC 73 dated 10/7/03 and 12/31/03
- Referral Form dated 10/7/03 from \_\_\_\_\_
- Progress Note from \_\_\_\_\_ dated 9/30/03
- Subsequent Medical Narrative dated 11/11/03 from \_\_\_\_\_.
- Right Finger Range of Motion Report dated 11/11/03
- Subsequent Medical Narrative dated 12/31/03 from \_\_\_\_\_.
- Medical Necessity Letter from \_\_\_\_\_

**Submitted by Respondent:**

- TWCC 60 Medical Dispute Resolution Request/Response
- Table of Disputed Services for dates of service 10/7/03-12/31/03
- Explanation of Benefits for dates of services 11/12/03-12/30/03

**Clinical History**

I have had the opportunity to review the medical records in the above-mentioned case for the purpose of an Independent Review. \_\_\_\_\_ is a 29 year-old male who suffered an open fracture of the right 5<sup>th</sup> finger middle phalanx and an extensor tendon laceration after his right hand was struck by a air-condition cooling fan. The claimant was initially seen by \_\_\_\_\_ for debridement of the open fracture and repair of his extensor tendon. The claimant was seen on 10/7/03 at \_\_\_\_\_ whose treatment consisted of 19 passive and active physical therapy visits with joint mobilization.

**Requested Service(s)**

(95862) Neuromuscular process evaluation, (97750) Muscle Testing, (97110) therapeutic Exercises, (97124) Massage, (97150) Therapeutic Process-Group, (97139-EU) Unlisted Therapeutic Process for dates of service 11/11/03-12/30/03.

**Decision**

I disagree with the insurance carrier and find that (95862) Neuromuscular process evaluation, (97750) Muscle Testing, (97110) Therapeutic Exercises, (97124) Massage, (97150) Therapeutic Process-Group, (97139-EU) Unlisted Therapeutic Process is necessary based on the provided records from \_\_\_\_\_ and \_\_\_\_\_.

**Rationale/Basis for Decision**

The claimant apparently suffered a open fracture of the 5<sup>th</sup> finger middle phalanx with a laceration of a extensor tendon as a result of the injury which would allow up to 36 physical therapy visits over a 16 week period, which includes therapeutic exercises, over and 16 week period the claimant should be instructed with active self-directed home physical therapy. I form this decision using the Official Disability Guidelines 8<sup>th</sup> Edition. The claimant had a total of 19 therapy office visits during this timeframe which appears to be reasonable.